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DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 100

U.S. Customs and Border Protection

19 CFR Part 101

Docket No. USCBP-2012-0037

CBP Dec. 14-08

Closing of the Jamieson Line, New York Border Crossing

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This final rule amends the Department of Homeland Security (DHS) regulations pertaining to the field organization of U.S. Customs and Border Protection (CBP) by closing the Jamieson Line, New York border crossing. The change is part of CBP's continuing program to utilize its personnel, facilities, and resources more efficiently, and to provide better service to carriers, importers, and the general public.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Roger Kaplan, Office of Field Operations, U.S. Customs and Border Protection, (202) 325-4543, or by email at Roger.Kaplan@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On September 24, 2012, CBP published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (77 FR 58782), proposing to close the Jamieson Line, New York, border crossing and amend the lists of CBP Customs stations at 19 CFR 101.4(c) and the CBP ports of entry at 8 CFR 100.4(a) to reflect the change. The primary reason for the proposed closure was the Canada Border Services Agency's (CBSA) closure of its adjacent port of entry of Jamieson's Line port in Quebec, Canada on April 1, 2011. As set forth in the NPRM, other factors were the very limited usage of the port; the locations of the alternative ports of entry of Trout River, New York and Chateaugay, New York; the lack of infrastructure at the border crossing to meet modern operational, safety, and technological demands of ports of entry; and the analysis of the net benefit of the port closure, including the cost of necessary renovations were the port to remain open.

II. Analysis of Comments

CBP received nine public comments in response to the NPRM. Three commenters supported the closure of the Jamieson Line border crossing and six commenters opposed it. The following section summarizes the comments and CBP responses, grouped into three general categories: impact on travelers, impact on surrounding area, and costs.

1. Impact on travelers

Comments: Several commenters wrote that the closure would require a detour during their frequent trips from Canada to the United States resulting in additional travel time, vehicle wear and tear, and added fuel costs. One of the commenters stated that, as a

senior citizen on a very limited pension, the additional travel time to the Chateaugay border crossing and the added fuel cost would be a great burden.

A commenter supporting the proposed closure of the border crossing wrote that traveling the six to nine extra miles to the next closest border crossing is not a substantial burden given that the Jamieson Line border crossing is infrequently used. Another commenter wrote that the border crossings at Chateaugay and Trout River are on state highways (as opposed to the Jamieson Line border crossing which is on a country road) and stated that re-routing the traffic to state highways would provide a more direct route for most travelers. One of the commenters queried whether the Jamieson Line border crossing has historically had significantly higher traffic numbers than in more recent years.

CBP Response: The Jamieson Line border crossing is one of CBP's least trafficked border crossings. The border crossing has processed an average of less than six privately owned vehicles per day and had the eighth lowest traffic volume of all CBP land border crossings for the past four fiscal years (2009-2012).¹ As explained in detail below, CBP would incur substantial costs in order to keep the border crossing open. Although CBP sincerely regrets the disruptions to personal and business routines that some individuals will experience due to the closure of the Jamieson Line border crossing, CBP cannot justify the substantial costs for so few vehicles.

2. Impact on surrounding area

Comments: One commenter wrote that the closing of the Jamieson Line border crossing would lead to job loss and economic hardship within the local community of

¹ Prior to 2008, traffic at the Jamieson Line border crossing was combined with the traffic of nearby ports so CBP cannot ascertain the actual number of crossings at the Jamieson Line border crossing for earlier years.

Burke, New York, which will lose contracts at the border crossing for services such as cleaning, lawn maintenance, and snow removal as well as business from the loss of travelers. (The Jamieson Line border crossing is in Burke, New York). The commenter also stated that the neighboring ports will be adversely affected by the closure since the neighboring ports are already burdened by obsolete buildings and minimum staffing and that the closing of the Jamieson Line border crossing would increase the wait times at the neighboring ports of Chateaugay and Trout River.

A commenter supporting the proposed border crossing closure noted that the citizens in the surrounding areas will be minimally impacted by the closure of the Jamieson Line border crossing; according to multiple maps of the area, there are no local businesses in the vicinity of the Jamieson Line border crossing and the travel time would not increase given the re-routing of the traffic to faster, more efficient state highways.

Another commenter asked whether the necessary renovation to the border crossing were it to remain open would stimulate the economy of the town of Burke, New York, which might attract more Canadians into the United States, especially given the favorable exchange rates. This commenter also inquired if renovating the Jamieson Line border crossing would potentially increase trade between the United States and Canada per “the Perimeter Security agreement”. Finally, this commenter asked whether CBP considered converting the Jamieson Line border crossing into an unmanned crossing. Another commenter questioned whether the greater distance between the border crossings made the border less secure.

CBP response: CBP believes that the impact of the closure of the Jamieson Line border crossing on the town of Burke and the surrounding area will be minimal. Since

fewer than an average of six vehicles a day enter the United States at the Jamieson Line crossing, the effect to local businesses is likely to be very small and the effect on wait times at nearby ports, if any, is likely to be minimal.

We do not believe that the vehicle traffic at the border crossing would increase or that other benefits would accrue from renovating the border crossing. CBP notes that such renovation would be performed only to allow the border crossing to meet current DHS building safety and security standards and that the border crossing would operate in the same manner as before, with one primary lane, no secondary lane, and no formal commercial vehicle inspection area. As such, CBP would not expect an increase in jobs or business activity in the local community. CBP does not believe that a renovation would increase the number of tourists arriving from Canada, especially given the fact that the border crossing on the Canadian side is closed. CBP also notes that the Beyond the Border Declaration between the United States and Canada (which the commenter refers to as the Perimeter Security agreement) is not relevant to the closure of the Jamieson Line border crossing as it primarily addresses security concerns, the further development of the trusted traveler programs, and the coordination between Canada and the United States at large border crossings.

CBP believes that the closure of the border crossing would not impair security at the border. First, CBP notes that the Area Port of Trout River and its border crossings (including Jamieson Line) have a low-risk, low-threat security and law-enforcement environment. Second, CBP will be taking several steps to address security concerns, including building a barrier to physically block the road to vehicular traffic, electronically monitoring the border crossing at all times, and conducting periodic sweeps. The

suggestion that CBP should consider converting the Jamieson Line border crossing into an unmanned crossing is not a viable option because the technology and equipment that would allow a border to be unstaffed is prohibitively expensive. In addition, the servicing port of any unmanned crossing at the Jamieson Line border crossing would still have to redirect manpower to respond to entry requests at a substantial cost.

3. Costs

Comments: Several of the commenters supporting the proposed closure of the Jamieson Line border crossing asserted that the closure is the fiscally sound option given the low daily volume of travelers, the nearby alternative ports of entry available, and the substantial cost to renovate the facilities to meet the current safety and security requirements. One of the commenters praised CBP for taking steps to save money especially given today's budgetary concerns. Another commenter wrote that the current condition of the building could pose a potential public risk if not updated and that the stated cost of implementing these necessary renovations is extremely high in relation to the low use of the border crossing.

Several commenters questioned the economic analysis included in the NPRM. One of the commenters wrote that renovating the structure was not the only viable option for keeping the Jamieson Line border crossing open and that CBP should have considered the alternative of continuing to operate the border crossing in its current state. Another commenter wrote that the border crossing has functioned for over fifty years and that only a modest replacement of the building for a fraction of the \$6,500,000 cost reflected in the NPRM would be necessary. A commenter challenged the estimated costs and economic analysis in the NPRM and asserted that numerous costs were incorrect.

Among other assertions, this commenter stated that the border crossing would only require three full-time CBP officers for full coverage and not the five full-time CBP officers currently assigned to the Jamieson Line border crossing. Finally, one commenter wrote that the annual cost to travelers to close the border crossing represents slightly less than 10% of what it would cost CBP to keep the facility operating in its current state.

CBP Response: We disagree with the commenters' assertions that CBP does not have to renovate the border crossing to continue operating the crossing and CBP maintains that all of our cost calculations are accurate. The current facility at the Jamieson Line border crossing does not meet CBP building safety and security standards and CBP must construct a new facility to meet these standards if the border crossing operations are to continue. (The facility was built in 1945 and has not undergone renovation since 1962.). As stated in the NPRM, CBP estimates the cost to renovate the facility at the Jamieson Line border crossing to be \$6,500,000. This estimate is based on the actual labor, land, environmental and other relevant costs to construct identical facilities in New York and Vermont. As further stated in the NPRM, the cost of the renovations and the costs to CBP of continuing to operate the Jamieson Line border crossing are \$7,087,000 (construction, plus staffing and operating costs) during the first year and \$587,000 (staffing and operating expenses) each following year. CBP estimates that it will cost approximately \$205,000 to physically close the border crossing which involves building barricades, stabilizing the building and fencing. CBP concurs that the additional travel cost to travelers is far less than the annual expense to the taxpayer for operating the Jamieson Line border crossing.

With regard to the level of staffing required at the Jamieson Line border crossing, CBP requires five full-time CBP officers at the crossing. This takes into account a five-day work week, vacation and sick leave, and time for mandatory and mission-enhancing training. When the NPRM was issued, the CBP Office of Field Operations estimated that a CBP officer spends 1,194 hours performing border crossing duties while at a border crossing (this estimate has since been revised to 1,182 hours). The Jamieson Line border crossing is open eight hours a day, 365 days a year and is staffed by two CBP officers each day. Therefore, this border crossing requires 5,840 hours of CBP officer time specifically dedicated to border crossing duties each year. As a result, five CBP officers are required to staff the Jamieson Line crossing.

III. Conclusion

After carefully considering the comments, CBP has decided to close the Jamieson Line, New York border crossing. We also considered (1) the very limited usage of the border crossing; (2) the locations of the alternative ports of entry; (3) the lack of infrastructure at the border crossing to meet modern operational, safety, and technological demands of ports of entry; and (4) the analysis of the net benefit of the border crossing closure including the cost of necessary renovations were the crossing to remain open. The lists of CBP Customs stations at 19 CFR 101.4(c) and the CBP ports of entry at 8 CFR 100.4(a) are being amended to reflect the change.

CBP is working with the New York State Department of Transportation and CBSA to identify the permanent barrier and signage necessary to prevent entry and re-route traffic to nearby ports of entry. CBP expects that any impact on the environment and any costs incurred to mitigate impact on the environment will be minimal. If

necessary, CBP will conduct minor environmental studies in the course of facility demolition and decommissioning.

IV. Congressional Notification

On May 31, 2011, the Commissioner of CBP notified Congress of CBP's intention to close the border crossing at Jamieson Line, fulfilling the congressional notification requirements of 19 U.S.C. 2075(g)(2) and section 417 of the Homeland Security Act (6 U.S.C. 217).

V. Regulatory Requirements

A. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, this final rule is signed by the Secretary of Homeland Security.

B. Executive Orders 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a "significant regulatory action," under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this regulation. Nevertheless, CBP provided its assessment of the benefits and costs of this regulatory action in an NPRM (see 77 FR 58782). CBP adopts the NPRM's economic analysis for this final rule without any changes, as summarized below.

DHS has determined that the Jamieson Line crossing requires significant renovation and expansion, requiring an estimated \$6.5 million to build facilities that meet all current CBP safety and security standards. Since this construction is the only alternative to closing the crossing, CBP would need to spend \$7,087,000 the first year (construction plus staffing and operating costs) and \$587,000 in staffing and operating expenses each subsequent year if the crossing were to remain open.

The costs of closing the Jamieson Line crossing fall into three categories – the cost to CBP to physically close the crossing, the cost to travelers to drive to the next nearest crossing, and the cost to the economy of lost revenue resulting from potential decreased Canadian travel. CBP estimates that it will cost approximately \$205,000 to physically close the crossing, which involves building road barricades, stabilizing the building, and fencing. With the closure of Jamieson Line crossing, travelers will incur an estimated \$46,670 in time costs and \$50,000 in vehicle costs annually to travel to an alternative crossing. We believe that the total impacts on the economy due to decreased travel to the United States are negligible. Thus, total quantifiable costs to close the crossing are \$301,670 in the first year and \$96,670 each following year.

Accounting for the overall costs and benefits of closing the Jamieson Line crossing, the net benefit of closing the crossing is \$6,785,330 the first year and \$490,330 each year thereafter, for an annualized net benefit of approximately \$1.3 million over the next ten years using a seven percent discount rate.

C. Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 603), as amended by the Small Business Regulatory

Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). Individuals are not defined as small entities under the Regulatory Flexibility Act.

Because CBP does not collect data on the number of small businesses that use the border crossing of Jamieson Line, we cannot estimate how many will be affected by this rule. However, an average of fewer than six vehicles cross into the United States at the Jamieson Line border crossing each day and DHS does not believe that this impact rises to the level of a significant economic impact. In addition, such impacts to small businesses are an indirect effect of this rule, but are discussed previously in this preamble. DHS thus certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with

section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

List of Subjects

8 CFR Part 100

Organization and functions (Government agencies).

19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Exports, Imports,
Organization and functions (Government agencies).

Amendments to DHS Regulations

For the reasons set forth above, DHS amends part 100 of title 8 of the Code of Federal Regulations and part 101 of title 19 of the Code of Federal Regulations as set forth below.

Title 8 — Aliens and Nationality

CHAPTER I—DEPARTMENT OF HOMELAND SECURITY

PART 100—STATEMENT OF ORGANIZATION

1. The authority citation for part 100 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108-458;
8 CFR part 2.

§ 100.4 [Amended]

2. The list of ports in § 100.4(a) is amended by removing “Jamison’s Line, NY” from the list of Class B ports of entry under District No. 7—Buffalo, New York.

Title 19 — Customs Duties

**CHAPTER I—U.S. CUSTOMS AND BORDER PROTECTION, DEPARTMENT
OF HOMELAND SECURITY**

PART 101—GENERAL PROVISIONS

3. The general authority citation for part 101 and the specific authority citation for § 101.4 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b

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§ 101.4 [Amended]

4. The list of ports in § 101.4(c) is amended by removing, under the state of New York, the entry “Jamieson’s Line” from the “Customs station” column and removing the corresponding entry “Trout River” from the “Supervisory port of entry” column.

DATED: July 17, 2014

Jeh Charles Johnson
Secretary of Homeland Security.

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07/22/2014]